

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1501**

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**Introduced by Assembly Member Niello**

February 23, 2007

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An act to amend Section ~~12950~~ 12950.1 of the Government Code, relating to fair employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1501, as amended, Niello. Fair employment: sexual harassment education.

*Existing law requires an employer having 50 or more employees to provide at least 2 hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees in California who are employed as of July 1, 2005, and to all new supervisory employees within 6 months of their assumption of a supervisory position.*

*Existing law also requires that the training and education regarding sexual harassment be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.*

*This bill would delete the 2-hour classroom requirement and the provision that the trainers or educators have knowledge and expertise in the prevention of harassment, discrimination, and retaliation.*

*The bill would also delete obsolete dates from these provisions.*

~~Existing law requires the Department of Fair Employment and Housing to provide employers with a poster and an information sheet regarding sexual harassment. Existing law also requires employers to post the poster in an accessible area of the workplace and either provide~~

~~each employee with a copy of the information sheet or provide a specified minimum curriculum of sexual harassment education. Existing law also authorizes the department to order an employer's compliance with these requirements.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 12950.1 of the Government Code is  
2     amended to read:

3     12950.1. (a) ~~By January 1, 2006, an~~ An employer having 50  
4     or more employees shall provide ~~at least two hours of~~ classroom  
5     or other effective interactive training and education regarding  
6     sexual harassment to all supervisory employees in California ~~who~~  
7     ~~are employed as of July 1, 2005,~~ and to all new supervisory  
8     employees within six months of their assumption of a supervisory  
9     position. ~~Any employer who has provided this training and~~  
10    ~~education to a supervisory employee after January 1, 2003, is not~~  
11    ~~required to provide training and education by the January 1, 2006,~~  
12    ~~deadline. After January 1, 2006, each~~ Each employer covered by  
13    this section shall provide sexual harassment training and education  
14    to each supervisory employee in California once every two years.  
15    The training and education required by this section shall include  
16    information and practical guidance regarding the federal and state  
17    statutory provisions concerning the prohibition against and the  
18    prevention and correction of sexual harassment and the remedies  
19    available to victims of sexual harassment in employment. The  
20    training and education shall also include practical examples aimed  
21    at instructing supervisors in the prevention of harassment,  
22    discrimination, and retaliation, ~~and shall be presented by trainers~~  
23    ~~or educators with knowledge and expertise in the prevention of~~  
24    ~~harassment, discrimination, and retaliation.~~

25    (b) The state shall incorporate the training required by  
26    subdivision (a) into the 80 hours of training provided to all new  
27    supervisory employees pursuant to subdivision (b) of Section  
28    19995.4, using existing resources.

1 (c) For purposes of this section only, “employer” means any  
2 person regularly employing 50 or more persons or regularly  
3 receiving the services of 50 or more persons providing services  
4 pursuant to a contract, or any person acting as an agent of an  
5 employer, directly or indirectly, the state, or any political or civil  
6 subdivision of the state, and cities.

7 (d) Notwithstanding subdivisions (j) and (k) of Section 12940,  
8 a claim that the training and education required by this section did  
9 not reach a particular individual or individuals shall not in and of  
10 itself result in the liability of any employer to any present or former  
11 employee or applicant in any action alleging sexual harassment.  
12 Conversely, an employer’s compliance with this section does not  
13 insulate the employer from liability for sexual harassment of any  
14 current or former employee or applicant.

15 (e) If an employer violates this section, the commission shall  
16 issue an order requiring the employer to comply with these  
17 requirements.

18 (f) The training and education required by this section is  
19 intended to establish a minimum threshold and should not  
20 discourage or relieve any employer from providing for longer,  
21 more frequent, or more elaborate training and education regarding  
22 workplace harassment or other forms of unlawful discrimination  
23 in order to meet its obligations to take all reasonable steps  
24 necessary to prevent and correct harassment and discrimination.

25 ~~SECTION 1. Section 12950 of the Government Code is~~  
26 ~~amended to read:~~

27 ~~12950. In addition to the employer responsibilities set forth in~~  
28 ~~subdivisions (j) and (k) of Section 12940 and in rules adopted by~~  
29 ~~the department and the commission, every employer shall act to~~  
30 ~~ensure a workplace free of sexual harassment by implementing~~  
31 ~~the following minimum requirements:~~

32 ~~(a) The department shall amend its current poster on~~  
33 ~~discrimination in employment to include information relating to~~  
34 ~~the illegality of sexual harassment. This amended poster shall be~~  
35 ~~distributed to employers when the supply of the current poster is~~  
36 ~~exhausted. One copy of the amended poster shall be provided by~~  
37 ~~the department to an employer upon request. The amended poster~~  
38 ~~shall be available at each office of the department, and shall be~~  
39 ~~mailed if the request includes a self-addressed envelope with~~  
40 ~~postage affixed. Multiple copies of the amended poster shall be~~

1 made available online by the department. Each employer shall post  
2 the amended poster in a prominent and accessible location in the  
3 workplace.

4 ~~(b) Each employer shall obtain from the department its~~  
5 ~~information sheet on sexual harassment, which the department~~  
6 ~~shall make available to employers for reproduction and distribution~~  
7 ~~to employees. One copy of the information sheet shall be provided~~  
8 ~~by the department to an employer upon request. The information~~  
9 ~~sheets shall be available at each office of the department, and shall~~  
10 ~~be mailed if the request includes a self-addressed envelope with~~  
11 ~~postage affixed. Multiple copies of the information sheet shall be~~  
12 ~~made available online by the department. Each employer shall~~  
13 ~~distribute this information sheet to its employees, unless the~~  
14 ~~employer provides equivalent information to its employees that~~  
15 ~~contains, at a minimum, components on the following:~~

16 ~~(1) The illegality of sexual harassment.~~

17 ~~(2) The definition of sexual harassment under applicable state~~  
18 ~~and federal law.~~

19 ~~(3) A description of sexual harassment, utilizing examples.~~

20 ~~(4) The internal complaint process of the employer available to~~  
21 ~~the employee.~~

22 ~~(5) The legal remedies and complaint process available through~~  
23 ~~the department and the commission.~~

24 ~~(6) Directions on how to contact the department and the~~  
25 ~~commission.~~

26 ~~(7) The protection against retaliation provided by Section 7287.8~~  
27 ~~of Title 2 of the California Code of Regulations for opposing the~~  
28 ~~practices prohibited by this article or for filing a complaint with,~~  
29 ~~or otherwise participating in an investigation, proceeding, or~~  
30 ~~hearing conducted by, the department or the commission.~~

31 ~~(c) The information sheet or information required to be~~  
32 ~~distributed to employees pursuant to subdivision (b) shall be~~  
33 ~~delivered in a manner that ensures distribution to each employee,~~  
34 ~~such as including the information sheet or information with an~~  
35 ~~employee's pay.~~

36 ~~(d) Notwithstanding subdivisions (j) and (k) of Section 12940,~~  
37 ~~a claim that the information sheet or information required to be~~  
38 ~~distributed pursuant to this section did not reach a particular~~  
39 ~~individual or individuals shall not in and of itself result in the~~  
40 ~~liability of any employer to any present or former employee or~~

1 applicant in any action alleging sexual harassment. Conversely,  
2 an employer's compliance with this section does not insulate the  
3 employer from liability for sexual harassment of any current or  
4 former employee or applicant.

5 (e) If an employer violates the requirements of this section, the  
6 commission shall issue an order requiring the employer to comply  
7 with these requirements.

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